

1 **UNITED STATES DISTRICT COURT**
2 **FOR THE**
3 **MIDDLE DISTRICT OF PENNSYLVANIA**

4 CAROLYN THOMAS,

5 Plaintiff

7 v.

8 JACOB COLLECTION GROUP,
9 LLC,

10 Defendant

Case No.:

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

(Unlawful Debt Collection Practices)

11
12 **COMPLAINT**

13 CAROLYN THOMAS (“Plaintiff”), by and through her attorneys,
14 KIMMEL & SILVERMAN, P.C., alleges the following against JACOB
15 COLLECTION GROUP, LLC (“Defendant”):
16

17 **INTRODUCTION**

18 1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices
19 Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”).
20

21 **JURISDICTION AND VENUE**

22 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d),
23 which states that such actions may be brought and heard before “any appropriate
24 United States district court without regard to the amount in controversy,” and 28
25

1 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising
2 under the laws of the United States.

3
4 3. Defendant conducts business in the Commonwealth of Pennsylvania
5 and as such, personal jurisdiction is established.

6 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

7
8 **PARTIES**

9 5. Plaintiff is a natural person residing in Mercersburg, Pennsylvania.

10 6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C.
11 §1692a(3).

12 7. Defendant is a debt collection company with offices located at 2623
13 West Oxford Loop, Oxford, Mississippi 38655.

14 8. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §
15 1692a(6), and sought to collect a debt from Plaintiff.

16 9. Defendant acted through its agents, employees, officers, members,
17 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
18 representatives, and insurers.

19
20 **FACTUAL ALLEGATIONS**

21 10. At all relevant times, Defendant was attempting to collect a debt on
22 LVNV Funding, LLC that was allegedly owed to Sears credit card.

23 11. This debt arose out of transactions that were primarily for personal,
24
25

1 family, or household purposes.

2 12. Beginning in April 2012, and continuing through May 2012,
3 Defendant contacted Plaintiff seeking and demanding payment for an alleged
4 credit card debt.
5

6 13. On April 24, 2012, Defendant sent Plaintiff written correspondence
7 demanding payment of \$7,672.96. See Exhibit A, Defendant's April 24, 2012,
8 letter to Plaintiff.
9

10 14. In the meantime, Defendant also began contacting Plaintiff on her
11 home telephone machine seeking and demanding payment of the alleged debt.
12

13 15. Defendant contacted Plaintiff, on average, two (2) times a day in its
14 attempts to collect a debt, and, at times, would call as frequently as three (3) times
15 a day.

16 16. For example, on April 27, 2012, Defendant contacted Plaintiff three
17 (3) times, calling her at 9:05 a.m., 11:27 a.m., and 1:06 p.m.
18

19 17. On that day, at 11:27 a.m., Plaintiff spoke with one of Defendant's
20 collectors who identified himself as "J.T."

21 18. "J.T." claimed that Plaintiff could settle the alleged debt for \$4,000.00
22 if she made payment that day.
23

24 19. This was confusing to Plaintiff, as only days earlier Defendant sent
25 her correspondence claiming that they had been authorized to settle the alleged

1 debt for \$5,371.07, which was greater than the amount "J.T." demanded to settle
2 the account.

3
4 20. Plaintiff explained to "J.T." that she was unable to make payments on
5 the alleged debt because she had medical/health issues which caused her to have to
6 stop working.

7
8 21. "J.T." told Plaintiff that he would give her a day to think about
9 settling the debt and apparently wished to end the call.

10 22. However, "J.T." did not actually hang up the telephone, and as
11 Plaintiff listened, she overheard the person identified as "J.T.'s" speak to someone
12 who apparently was her supervisor, who said, "same old story, back hurts".

13
14 23. During the above call, Plaintiff continued to listen and overheard the
15 supervisor instruct "J.T." to run a thorough background check on Plaintiff. It was
16 after this that Plaintiff hung up.

17
18 24. Several days later, on May 1, 2012, at 11:27 a.m., the person
19 identified as "J.T." called Plaintiff again asking if she could now make payments
20 of \$75.00 - \$100.00/month, to which "J.T." was told that Plaintiff could not, and
21 reiterated that she was going through a hardship financially due to being out of
22 work for medical reasons.

23
24 25. Plaintiff told JT that her situation may be different in three to six
25 months.

1 26. In reply, "J.T." stated that it "would cost [her] thousands more and
2 possibly go further," if she did not pay immediately.

3 27. "J.T." threatened Plaintiff that Defendant would take legal action
4 against her.

5 28. Plaintiff understood "JT" to mean that legal action would result in a
6 judgment and lien against her property.

7 29. Not wanting to be contacted any further, Plaintiff instructed
8 Defendant to stop calling her.

9 30. Then, on May 2, 2012, at 3:24 p.m., Plaintiff received a telephone
10 message from someone claiming to be "J.T.'s boss" who said, "after reviewing
11 J.T.'s notes on a conversation yesterday," he believed he "can help" her, and told
12 Plaintiff to call him back.

13 31. Several days later, on May 8, 2012, Defendant contacted Plaintiff
14 twice, calling her at 2:48 p.m. and 3:48 p.m at which time Defendant's collector
15 identified herself as "Bonnie Hill". Plaintiff demanded that calls stop, to which the
16 collector stated that continued calls were necessary until the alleged debt was paid.

17 32. In the above conversation, "Ms. Hill" suggested that Plaintiff borrow
18 money from her retirement plan or from her friends to pay the alleged debt.

19 33. "Ms. Hill" threatened Plaintiff that if she did not pay, Defendant
20 would continue to make investigations into her employment and seek to garnish
21

1 her wages.

2 34. Plaintiff again told "Ms. Hill" to stop the calls, to which "Ms. Hill"
3 again responded, that Plaintiff must pay to stop the calls.
4

5 35. Defendant's conduct in the above conversation was misleading and
6 deceptive and also threatened action which Defendant could not or did not intend
7 to take.
8

9 36. At no time did Defendant intend, or take any steps, including referring
10 Plaintiff's account to an attorney licensed to practice law in Pennsylvania, to
11 pursue legal action against Plaintiff.
12

13 37. Further, Defendant did not intend to garnish Plaintiff's wages, and
14 legally could not do so, as, in Pennsylvania, an individual's wages cannot be
15 garnished to satisfy a debt.
16

17 **DEFENDANT VIOLATED THE**
18 **FAIR DEBT COLLECTION PRACTICES ACT**
19

20 38. In its actions to collect a debt, Defendant violated the FDCPA in one
21 or more of the following ways:

22 **COUNT I**
23

- 24 a. A debt collector violates §1692d of the FDCPA by engaging in
25 conduct the natural consequence of which is to harass, oppress,
or abuse any person in connection with the collection of a debt.

1 b. A debt collector violates §1692d(5) of the FDCPA by causing a
2 telephone to ring or engaging any person in telephone
3 conversation repeatedly or continuously with intent to annoy,
4 abuse, or harass any person at the called number.
5

6 c. Here, Defendant violated §§1692d and 1692d(5) of the FDCPA
7 by calling Plaintiff multiple times a day and multiple times a
8 week, with the intent to annoy, abuse and harass Plaintiff.
9

10 COUNT II

11 a. A debt collector violates §1692e of the FDCPA by using false,
12 deceptive or misleading representations or means in connection
13 with the collection of any debt.
14

15 b. A debt collector violates §1692e(4) of the FDCPA by representing
16 or implicating that nonpayment of any debt will result I the arrest
17 or imprisonment of any person or the seizure, garnishment,
18 attachment, or sale of any property or wages of any person unless
19 such action is lawful and the debt collector or creditor intends to
20 take such action.
21

22 c. A debt collector violates §1692e(5) of the FDCPA by threatening
23 to take any action that cannot legally be taken or that is not
24 intended to be taken.
25

1 d. Here, Defendant violated §§1692e and 1692e(4) when it
2 threatened to garnish Plaintiff's wages for a nonpayment of a debt,
3 when it did not intend to do so and legally could not do so.

4
5 e. Also, Defendant violated §§1692e and 1692e(5) when it
6 threatened legal action against Plaintiff, when it did not intend to
7 do so.

8
9 **COUNT III**

10 f. Defendant violated the FDCPA §1692f by using unfair and
11 unconscionable means in connection with the collection of a debt.

12
13 g. Here, Defendant violated §1692f of the FDCPA engaging in other
14 unfair and unconscionable debt collection practices, including
15 telling Plaintiff it would cost her thousands more in dollars if she
16 did not pay the alleged debt, that they were conducting a
17 background check on her, that they would conduct an employment
18 investigation, to borrow money from her friends and/or her 401-K
19 in order to pay the alleged debt, and that the only way the calls
20 would stop is if she made payment on the alleged debt.
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22
23 WHEREFORE, Plaintiff, CAROLYN THOMAS, respectfully prays for a
24 judgment as follows:

25 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);

c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and

d. Any other relief deemed appropriate by this Honorable Court.

PLEASE TAKE NOTICE that Plaintiff, CAROLYN THOMAS, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED: June 6, 2012

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